

The La Verkin U.N.-Free Zone Ordinance: A Town Athwart the New World Order

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NOTES

The La Verkin U.N.-Free Zone Ordinance: A Town Athwart the New World Order?

Andrew G. Fiorella†

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"The U.N. is anti-God, anti-family and anti-country. They are against everything La Verkin stands for. So the U.N. is anti-La Verkin. La Verkin has the right to be anti-U.N."¹

† J.D., Cornell Law School, 2003; B.A., State University of New York at Buffalo, 2000. The author would like to thank Michelle M. Fiorella, Kenneth L. Anderson, Felix J. Bronstein, Robert G. Knaier, and Davis B. Tyner for their assistance, encouragement, and support in the preparation of this Note. Quid leges sine moribus vanae proficiunt? HORACE, ODES, III. xxiv. 35.

1. Mark Eddington, *La Verkin Revises U.N. Law*, SALT LAKE TRIB., July 26, 2001, at B1 (quoting La Verkin resident Andy Hare).
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"La Verkin is the 'mouse that roared,' only to be crushed by the [Utah] state attorney general, the threatening communist ACLU group, the world government U.N. and the Utah media."²

Introduction

The night of July 4, 2001 was surreal in the tiny town of La Verkin, Utah.³ On that night, specifically chosen for its patriotic symbolism,⁴ the Mayor and City Council met in special session to address what it saw as an urgent constitutional and international crisis.⁵ They hoped to save the citizens of their town from a pernicious evil that the Congress, President, and Supreme Court of the United States seemed to ignore: the United Nations' designs to usurp the U.S.'s national sovereignty.⁶ The City Council decided to act by passing a U.N.-free zone ordinance.⁷ Not surprisingly, the ordinance sparked sharp criticism.⁸ Almost two weeks later La Verkin Mayor Dan Howard said, "We've been pushed far enough, and long enough. We're tired of marching to [the U.N.] agenda. . . . Maybe La Verkin is the crucible to get the rest of the cities and the national government to listen."⁹ Newspaper accounts cite Councilman Al Snow¹⁰ as saying, after displaying a map of the United States color-coded with areas purportedly under U.N. control, "You may only have two years of freedom

2. Elsie Robinson, *La Verkin is Justified*, DESERET NEWS (Salt Lake City), Aug. 10, 2001, at A10.

3. La Verkin had a population of 3,392 at the time of the 2000 census. U.S. CENSUS BUREAU, POPULATION, HOUSING UNITS, AREA, AND DENSITY: 2000, <http://factfinder.census.gov> (last visited Feb. 15, 2003). The town sits on just over 16 square miles in southern Washington County, Utah. *Id.* The information website of the City of La Verkin states, "At the foot of Zion National Park, amidst seemingly endless panorama of beautiful scenery, consisting of tall mountains, rugged cliffs, painted rocks, lies La Verkin, . . . the choicest spot in Southern Utah." City of La Verkin Information Page, at <http://www.LaVerkinCity.com> (last visited Feb. 15, 2003).

4. Andrea Billups, *Two Utah Towns Consider "U.N.-Free Zones": Leaders in La Verkin, Virgin Cite Global Power's Increasing Influence on Western Region*, WASH. TIMES, June 27, 2001, at A3.

5. Tracie Sullivan, *La Verkin Council Preserves Constitutional Rights in Revised U.N. Free-Zone Ordinance*, SIERRA TIMES, July 27, 2001, at <http://www.sierratimes.com/archive/files/jul/27/arts072701.htm> (last visited June 24, 2003).

6. See La Verkin, Utah, Ordinance 2001-09, United Nations Free Zone Ordinance § 4(C) (July 4, 2001) [hereinafter U.N.-Free Zone Ordinance] ("The Congress, the President, and the Supreme Court of the United States, have failed to adequately protect the people of the United States from the United Nations' usurpation of the sovereignty of the people of the United States, including the sovereign powers of the people of this city.").

7. See *id.*

8. See Sullivan, *supra* note 5.

9. Thomas Burr, *No Welcome for the World in Utah Towns*, SALT LAKE TRIB., June 26, 2001, at A1.

10. In 2002, Mr. Snow wrote a book detailing his concerns about the interaction between the U.N. and the United States, and on the effects of multinational agreements on La Verkin. See generally AL SNOW, SR., *EXCEPTIONAL PROFILE OF COURAGE: THE UNITED NATIONS VS. AMERICAN LIBERTY* (2002). For instance, in his book Snow asserts that "as a U.S. citizen, you need to become aware of the gradual transfer of U.S. decision-making power—military, environmental, economic, labor, arms control, and taxing—to the United Nations." *Id.* at 9.

in this country, and I'm saying we do not want that to happen."¹¹ The debate continued until July 24, 2001, when, by a thin 3-2 margin, the City Council voted in favor of a revised, and significantly watered down,¹² U.N.-free zone ordinance.¹³ At the height of the tempest, La Verkin's reputation actually inspired curious, passing tourists to inquire at City Hall about buying anti-U.N. merchandise.¹⁴ Six months later, the storm seemed to have passed as quickly as it came.¹⁵ Or has it?

The Ordinance divided the town both before and after the Council's vote in favor of the Revised Ordinance.¹⁶ Councilmen Gary McKell, who had voted against the Revised Ordinance, said shortly after its passage, "I hope we don't have a flocking of those with anti-government and anti-tax views coming to town."¹⁷ The division manifested itself in the fall 2001 election,¹⁸ in which the people of La Verkin chose a new Mayor and replaced almost the entire City Council.¹⁹ The first legislative act of the new Council was the repeal of the U.N.-Free Zone Ordinance,²⁰ which had attracted both praise and blame to the tiny town.²¹ However, La Verkin's electoral revolt far from settled the conflict over the Ordinance inside²² or

11. Nancy Perkins, *La Verkin Amends U.N. Law*, DESERET NEWS (Salt Lake City), July 26, 2001, at A01.

12. Sullivan, *supra* note 5.

13. La Verkin, Utah, Ordinance 2001-11, United Nations Free Zone Ordinance (Revised) (July 24, 2001) (repealed 2002) [hereinafter Revised Ordinance]. The text of the Revised Ordinance is available at <http://www.americansovereign.com/forms/LaVerkin.pdf>.

14. Nancy Perkins, *La Verkin Couple Ready for Rematch*, DESERET NEWS (Salt Lake City), Aug. 12, 2001, at B04 (quoting then-councilman Gary McKell as saying: "I have to run [for City Council again]. . . . Somebody with common sense needs to be there.").

15. Nancy Perkins, *La Verkin Repeals U.N. Ordinance*, DESERET NEWS (Salt Lake City), Jan. 17, 2002, at B05.

16. See generally Greg Burton & Thomas Burr, *Dissent in the Desert*, SALT LAKE TRIB., July 15, 2001, at A1 (discussing, in part, the local opposition to the Revised Ordinance and quoting La Verkin resident and business owner LaMar Gubler as saying "It's an isolationist view and we don't need it.").

17. Nancy Perkins, *Will Anti-U.N. Ordinance Give La Verkin a "Black Eye"?*, DESERET NEWS (Salt Lake City), July 6, 2001, at B03.

18. *The Winners and the Losers*, DESERET NEWS (Salt Lake City), Jan. 19, 2002, at A01.

19. In August 2001, the city's website listed the Mayor as Dan Howard and three Councilmen, Al Snow, Victor Iverson, and Darren Cottam, as supporting the Ordinance. *Let's Get the Record Straight* (web page removed from the City's website) (copy on file with author). After the 2001 election, only Councilman Snow remained. See City of La Verkin City Information Page, at <http://www.LaVerkincity.com/administration.html> (last visited Sept. 30, 2003).

20. Ordinance List and Disposition Table, <http://municipalcodes.lexisnexis.pdf> (last visited Sept. 30, 2003).

21. Compare Letter from Herbert W. Titus, to the La Verkin, Utah City Counsel and the Citizens of La Verkin, Utah (July 24, 2001), <http://www.unwatch.com/titus-jbs.html> (last visited Sept., 2003) (praising the council for its "pioneering effort to restore American independence and sovereignty. . . ."), with *La Verkin's Anti-U.N. Blunder*, DESERET NEWS (Salt Lake City), July 28, 2001, at A10 (calling the Revised Ordinance a "codification of] misinformation into a city ordinance").

22. See, e.g., Nancy Perkins, *U.N.-Free Certificates Still Available*, DESERET NEWS, Jan. 20, 2002, at B02 (discussing the efforts of the Revised Ordinance's supporters to have a referendum to keep La Verkin U.N.-free').

outside²³ its borders. In fact, the resolution asking Congress to get the United States out of the United Nations buoyed the standing of a referendum on the Ordinance scheduled for the fall of 2003.²⁴

As originally conceived, the Ordinance required, *inter alia*, any local business working for the U.N., either directly or indirectly, to post a sign reading: "U.N. work conducted here," to pay a fee, and to file an annual report.²⁵ It also forbade city employees from cooperating with U.N. activities.²⁶ For each violation of the Ordinance, violators faced a possible misdemeanor prosecution.²⁷

Shortly after the City Council's peculiar attempt to defend the U.S.'s national sovereignty, two of the City's four police officers resigned citing concerns about enforcing the Ordinance.²⁸ The City Manager asked the Utah Attorney General, who had expressed reservations about the constitutionality of the Ordinance, to review it.²⁹ Nationally, newspapers³⁰ and television chat shows³¹ chortled at the little town that declared the U.N. *persona non grata* in their part of southern Utah.

In light of the international cooperation needed to challenge global terrorism and address other pressing transnational problems, it may be easy to dismiss La Verkin's sovereignty concerns as simply the misguided rumblings of frightened small town residents or right-wing fanatics.³²

23. See Resolution Urging Congress to Withdraw the United States from the United Nations, H.R. 7, 2003 Gen. Sess. (Utah 2003) (asking Utah's Congressional delegation to seek U.S. withdrawal from the United Nations, thereby "freeing the nation from a large financial burden and retaining its sovereignty to decide what is best for the country and the steps that it considers appropriate as the leader of the free world, with full control of its armed forces and destiny."). Utah State Representative Don E. Bush sponsored H.R. 7. To support his view that the United States should end its participation in the UN Representative Bush points not only to the current differences over Iraqi policy, but also to what he sees as the U.N.'s previous failed involvement in global conflict. See Bob Bernick Jr., *Anti-U.N. Resolution Advances*, DESERET NEWS (Salt Lake City), Feb. 11, 2003, at A01.

24. See Nancy Perkins, *La Verkin Now Feels Vindicated*, DESERET NEWS (Salt Lake City), Feb. 15, 2003, at A01 (discussing, briefly, Al Snow's reaction to the introduction of H.R. 7 in the Utah legislature); see also John Enders, *Sagebrush Revolt; Disgruntled Ranchers and Loggers Show their Frustration with Government and Fear of the United Nations*, SOUTH FLORIDA SUN-SENTINEL (Ft. Lauderdale), June 16, 2002, at 3A (discussing Grant County, Oregon's adoption of the U.N.-free Zone Ordinance and the La Verkin ballot initiative, which followed the repeal of the Revised Ordinance in January 2002).

25. Sullivan, *supra* note 5.

26. Nancy Perkins, *Officer Resigns over Anti-UN Edict*, DESERET NEWS (Salt Lake City), July 8, 2001, at B03.

27. U.N.-Free Zone Ordinance, *supra* note 6, § 7.

28. *Small Town Paranoia*, TIMES-PICAYUNE (New Orleans), July 25, 2001, at 6.

29. See Perkins, *supra* note 5.

30. E.g., Pete Waldmeir, *Utah Town Matches Hold School Board Stride for Stride in Silliness Race*, DETROIT NEWS, July 30, 2001, at 1D; Jim Fisher, *La Verkin, Utah: Decent, God-Fearing, UN-Free*, LEWISTON MORNING TRIB., October 3, 2001, at 10A.

31. E.g., *Greenfield at Large: Is America Ignoring World Opinion?* (CNN television broadcast, July 30, 2001) (transcript available at www.lexis.com).

32. For example, in a bit of sanctimonious criticism, the John Birch Society sharply criticized the La Verkin efforts as "hopelessly flawed" and "ludicrous." See Greg Burton, *Birch Society Scolds La Verkin over Ban*, SALT LAKE TRIB., July 21, 2001, at B1 (suggesting a fear of a "guilt by association" connection between the Society's strong anti-U.N. posi-

However, such flippancy unfairly dismisses the sincerely held concerns of people who hold genuine affection for the United States. Marginalizing these fears—however ill-founded they may be—without first attempting to understand the nature and foundation of their claims is arrogant. Our shared national belief in counter-majoritarian institutions and the right of local action suggest that the story behind this quixotic effort is more complex than a simple left-right policy debate.

It is against this broad thematic framework that this Note will consider the La Verkin Ordinance. Section I summarizes the immediate historical background of the decision to enact the U.N.-Free Zone Ordinance and examines the seemingly disparate individual forces that may have created the appearance of the need for the people of La Verkin to act against the U.N.³³ It also examines the particular language, justification, and legislative findings of the Ordinance, and discusses the relationship between its rhetoric and the forces apparently influencing the La Verkin government. Section II briefly examines the constitutionality of the Ordinance in the wake of the Supreme Court's decision in *Crosby v. National Foreign Trade Council*,³⁴ and determines that the Revised Ordinance is tolerable, however politically indiscreet. Section II also concludes that the Revised Ordinance is acceptable under international law. Lastly, Section II considers a hypothetical application of the Revised Ordinance and the possible international reaction to it. Most important, this Note seeks to highlight the aspects of the La Verkin effort that raise important unsettled questions in the nascent transnational system.

I. Background: "For God's sake, wake up, patriots. It's later than you think."³⁵

In the years since the end of the cold war, the United Nations and a furtive "new world order"³⁶ have supplanted or subsumed communism and

tion and the U.N.-Free Zone Ordinance). The mayor of nearby Springdale, Utah was quoted as saying that La Verkin's efforts represent an "[i]ncredible but creepy southern Utah BirchFest"—presumably referring to the John Birch Society—and characterizing the atmosphere surrounding the passage of the Ordinance a "circus of fear and paranoia." *See id.*

33. Although both illuminating and relevant to the discussion of the La Verkin Ordinance, a comprehensive history of the extreme right-wing in the U.S.—even one limited to the decade after the Cold War—is beyond the scope of this Note. *See generally*, CHIP BERLET & MATTHEW N. LYONS, *RIGHT-WING POPULISM IN AMERICA: TOO CLOSE FOR COMFORT* (2000) (discussing the history of the extreme right from the Revolutionary War through the Clinton Presidency); Wilson Huhn, *Political Alienation in America and the Legal Premises of the Patriot Movement*, 34 GONZ. L. REV. 417 (1998).

34. 530 U.S. 363 (2000).

35. Jo Healy, Letter to the Editor, *We Let UN Become Larger than U.S.*, THE STUART NEWS/PORT ST. LUCIE NEWS, Oct. 4, 2000, at A11 (commenting on Michael New's court-martial and dishonorable discharge from the Army for refusal to wear the U.N. insignia while on a peacekeeping mission).

36. There are at least two important meanings to the phrase "new world order" in this context. The first is the well-known utterance of President George Bush. *See* Address Before a Joint Session of Congress on the Cessation of the Persian Gulf Conflict, 27 WEEKLY COMP. PRES. DOCS. (March 6, 1991) at 259. The second covers a variety of

anti-Semitic world banking conspiracies as a lightning rod for some in the extreme right.³⁷ Print and on-line sources teem with reports and interpretations of the U.N.'s "black helicopter"³⁸ missions within the United States,³⁹ plans to interfere with parental rights or religious freedom,⁴⁰ and Marxist designs for an unholy world government.⁴¹ Despite the emergence of new and more tangible shadowy, global enemies, the U.N. remains a central player in the hurly-burly of far-flung conspiracy theories,⁴² including those which inspired La Verkin to act.

Independent of the particulars of La Verkin's story, the study of this Ordinance and the movements that spawned it is also important for three reasons that lie beyond pedantic fairness to the eccentric views of others. First, although La Verkin was the first local government to adopt a U.N.-free zone ordinance, it has not been the last. In 2001, the City Council of Bingham, New Mexico adopted an ordinance similar in style and scope to the one in La Verkin.⁴³ In 2003, voters in Grant County, Oregon, approved

furtive world government conspiracy theories, some of which include the U.N. See Huhn, *supra* note 33, at 422; see also JIM KEITH, BLACK HELICOPTERS OVER AMERICA: STRIKEFORCE FOR THE NEW WORLD ORDER 122-49 (1994) (positing that the phrase equates with a plan to replace the U.S. government with a transnational, presumably communist, world government); Centre for Conspiracy Culture, *The New World Order Conspiracy*, at <http://www.wkac.ac.uk/ccf/content/neworder.htm> (last visited Sept., 2003) (defining the conspiracy theory use of "new world order").

37. See generally BERLET & LYONS, *supra* note 33, at 192-95.

38. For many years, reports of mysterious black helicopters flying missions within the U.S. have fueled conspiracy theories and benign explanations about their origins and motives. See, e.g., KEITH, *supra* note 36, at 17 ("Unmarked black helicopters are flying over our land in violation of all local and federal laws, carrying on their secret business, and taunting and terrifying the populace Whatever powers are dispatching the black helicopters, however, this is not a new phenomenon."); compare Jeff Head, *U.N. Armor in Mechanized Depot Outside Billings, Montana*, <http://www.mt.net/-watcher/mttroops.html> (last visited Sept. 30, 2003) (recounting the story of an unnamed military serviceman regarding secret U.N. military bases in Montana), with Bill Weinberg, *The Black Helicopters Are Real!*, at <http://mediafilter.org/mff/s38/S38.BlkHelicopter.html> (last visited Sept. 30, 2003) (clarifying some recent reports of black helicopter sightings as U.S.-operated law enforcement activities).

39. See, e.g., "Little Black Helicopter Page," *What are the Little Black Helicopters?*, at <http://www.sss.org/lbh/helos.html> (May 20, 1996) (last visited Sept. 30, 2003) ("Quite simply, the Little Black Helicopters are aircraft used by the United Nations to prepare for a total Takeover of the United States. The privately held property inside the United States would be internationalized, the citizens' weapons confiscated, and children gang-raped if we allow them to continue their covert operations.").

40. See, e.g., William Norman Grigg, *Your Child, the Global Citizen*, NEW AMERICAN, July 21, 1997, at 39, available at http://www.getusout.org/un/articles/global_child.htm (last visited Sept. 30, 2003) ("In the secular egalitarian order which the [U.N. Convention on the Rights of a Child] seeks to create, parents and children would be equal before the state—a radical departure from the biblical worldview in which children are required to honor and obey their parents to the extent that the parents honor and obey God. The Convention would also forbid parents to employ *biblically mandated* physical discipline.") (emphasis added).

41. See, e.g., Tom Gow, *The United Nations Exposed: Introduction*, at http://www.getusout.org/resources/une_intro.htm (last visited Sept. 30, 2003).

42. See *id.*

43. See Bingham, *New Mexico Declares Itself a "UN-Free Zone,"* at <http://american-sovereign.com/articles/2001/bingham.htm> (last visited Sept. 30, 2003).

a similar U.N.-free zone ordinance.⁴⁴ In addition, a local citizen's group has unsuccessfully lobbied Lincoln County in Montana to adopt a comparable ordinance.⁴⁵ Thus, although hardly a legislative stampede, the anti-U.N. movement is not isolated to La Verkin.

Second, the stereotyping of strong anti-U.N. views as irrational extremism⁴⁶ chills public debate about the changing demands on transnational governance in the aftermath of the Cold War.⁴⁷ This is particularly true in an era of diminishing domestic electoral participation,⁴⁸ shifting international allegiances, and terrorism. Marginalization, even of extreme views,⁴⁹ does little more than justify feelings of alienation. This, in turn, fuels wild conspiracy theories and polarizes debate on important issues domestically⁵⁰ and sows the seeds of terrorism internationally.⁵¹ Therefore, as global conflicts and social problems strain the capacity and design

44. See Enders, *supra* note 24 and accompanying text.

45. Montana Human Rights Network News, *Anti-UN Fever: Libby Group Latest to Catch Paranoia Bug*, Sept. 2001, at <http://www.mhrn.org/news/0901project.html> (last visited Sept. 30, 2003) [hereinafter *Anti-UN Fever*].

46. See, e.g., John M. Goshko, *U.N. Becomes Lightning Rod for Rightist Fears: Criticism of World Body Resonates in GOP Themes*, WASH. POST, Sept. 23, 1996, at A1 (characterizing those strongly opposed to the U.N. as "people waving clenched fists" whose views were co-opted and exploited by some Republicans for political gains).

47. For example, the retirement of North Carolina Senator Jessie Helms inspired commentators from the center and left to admit, however grudgingly, that his intransigence led to important reforms at the U.N. See, e.g., Albert R. Hunt, *A Powerful but Painful Legacy*, WALL ST. J., Aug. 23, 2001, at A17 (noting Senator's Helms' compromise—against the wishes of many in his party—to pay America's past dues to the U.N.); "Senator No" Says No to a Sixth US Senate Term, AGENCE FRANCE-PRESSE, Aug. 23, 2001, available at 2001 WL 24996179 ("Helms used his power . . . to hold up payment of US dues in order to pressure the UN to reform its bureaucracy. . ."). But cf. David S. Broder, *Jesse Helms, White Racist*, WASH. POST, Aug. 29, 2001, at A21 (castigating the press for largely glossing over Sen. Helms' racist views).

48. See Huhn, *supra* note 33.

49. See Goshko, *supra* note 46 (quoting former Ambassador Madeleine K. Albright as having said that "in its hard-core form, these people [who strongly oppose American involvement in the U.N.] are making an argument that you can't deal with rationally.").

50. Steven Gorelick, *Facing the Farm Crisis*, ECOLOGIST, June, 2000, at 28 (arguing that changes in the global production of food have exacerbated the challenges of rural life). Gorelick draws a connection between economic vulnerability and conspiracy theories:

Many dispossessed rural people are coming to understand the broad systemic forces that are undermining economies and cultures the world over. But the mix of hopelessness and anger, particularly in America's economically broken heartland, has made others susceptible to right-wing conspiracy theories that blame rural woes on racial minorities, Catholics, immigrants, a 'Jewish banking conspiracy,' or a world government run by the UN and policed by swarms of black helicopters.

Id. at 30-31.

Similarly, the vilification in some media sources of the French and Germans position opposing Operation Iraqi Freedom in the Security Council certainly helped to polarize debate about the War. The *New York Post* dubbed the Security Council opposition as forming "an Axis of Weasels," a parody of President George W. Bush's "Axis of Evil." Deborah Orin & Brian Blomquist, *Weasels to Hear New Iraq Evidence: It's Showdown Time at U.N. as Powell Takes on Euro-Weasels*, N.Y. POST, Feb. 14, 2003, at 1; Jennifer Harper, *A War of Words on the French: American Newspapers Open Fire on an 'Axis of Weasels'*, WASH. TIMES, Feb. 15, 2003, at 1 (noting National Review Magazine's use of the

of transnational organizations, the most profound challenge for the U.N. might be overcoming the feelings of political powerlessness and alienation that can accompany remote—and even limited—forms of government.⁵²

Third, questions about the boundary between national sovereignty and the authority of the U.N. are neither novel nor uniquely American.⁵³ These questions touch issues that are intimately local as well as broadly transnational.⁵⁴ For example, in the past the U.N. has criticized the Aus-

phrase “cheese-eating surrender monkeys”—taken from the *The Simpsons* animated cartoon show—to refer to the French in a series of articles).

51. See Shibley Telhami, *Conflicting Views of Terrorism*, 35 CORNELL INT’L L.J. 581, 595 (2002) (“The more central reasons motivating people to act, and to be recruited by violent groups, are hopelessness and humiliation, which have to do with expectations and interpretations of social and political relations.”); see also Richard N. Haass, *The Goal Becomes Muslim Democracy: A Priority Shift in Washington*, INT’L HERALD TRIB., Dec. 11, 2002, at 4, available at 2002 WL 2890395 (“Countries plagued by economic stagnation and lack of opportunity, closed political systems and burgeoning populations fuel the alienation of their citizens. As we have learned the hard way, such societies can be breeding grounds for extremists and terrorists who target America for supporting the regimes under which they live.”).

52. See Huhn, *supra* note 33, at 419 (noting that “[t]he alienation of the Patriot Movement is not idiosyncratic. Rather, it is symptomatic of a larger pattern. The Patriot Movement is merely an extreme example of political alienation in American society.”).

53. The U.N. appears to be aware of its critics in this area. For example, in a 1996 question and answer booklet designed for the public, the United Nations Department of Public Information blithely answers the question “Is the United Nations a world government?” in a short paragraph nestled between the answers to “Why is the United Nations necessary?” and “Has the UN made the world a better place?” See U.N. DEP’T OF PUB. INFO., *IMAGE & REALITY: QUESTIONS AND ANSWERS ABOUT THE UNITED NATIONS: WHAT IT DOES, HOW IT WORKS, AND WHO PAYS FOR IT* 4-5 (1996). See also, Jordana P. Simov, Comment, *The Effects of Intercountry Adoptions on Biological Parents’ Rights*, 22 LOY. L.A. INT’L & COMP. L. REV. 251 (1999) (noting, inter alia, the reluctance of states, based in part on sovereignty concerns, to adopt uniform transnational laws, some proffered by the U.N., governing international adoptions). In this debate, it should be remembered that, within living memory, the conflict between the sovereignty of state and federal governments in the United States was far from settled, even long after the Civil War. For example, in *Testa v. Katt*, 330 U.S. 386 (1947), the Supreme Court held that Rhode Island courts could not refuse to enforce World War II-era federal emergency price control legislation. The Court noted the history of reticence by state courts to enforce federal law,

Enforcement of federal laws by state courts did not go unchallenged. Violent public controversies existed throughout the first part of the Nineteenth Century until the 1860’s concerning the extent of the constitutional supremacy of the Federal Government. During that period there were instances in which this Court and state courts broadly questioned the power and duty of state courts to exercise their jurisdiction to enforce United States civil and penal statutes or the power of the Federal Government to require them to do so.

Id. at 390 (citations omitted) (emphasis added).

Of course, the current relationship of the member states to the U.N. is entirely voluntary and consensual; however, like the movement from the Articles of Confederation to the Constitution, a consensual relationship among sovereigns can go only so far.

54. It is, of course, possible to cast the sovereignty debate as a false dilemma. See, e.g., Louis Henkin, *That “S” Word: Sovereignty, and Globalization, and Human Rights, Et Cetera*, 68 FORDHAM L. REV. 1, 2 (1999) (stating that “the sovereignty of states in international relations is essentially a mistake, an illegitimate offspring. Sovereignty began as a domestic term in a domestic context. Its application to modern states . . . has inevitably brought distortion and confusion.”). A complete discussion of this view, although rele-

tralian government's domestic policies on women's rights.⁵⁵ Nevertheless, after a rancorous debate in 2000,⁵⁶ the Australian government, concerned—at least in part—by issues of sovereignty, refused to ratify⁵⁷ the Optional Protocol to the Convention of the Elimination of All Forms of Discrimination Against Women.⁵⁸ Members of the Australian government felt that Australia had adequate protection for women's rights, and that the U.N. had no business interfering in the country's domestic affairs.⁵⁹ Australia responded to the criticism by lashing out at the U.N. generally, and criticizing the U.N. committee system specifically.⁶⁰ As evidenced by this example, if transnational government is to become an effective mechanism for addressing global problems, it needs to face more directly the problem of balancing national and transnational sovereignty.

A. Why La Verkin, Why Now?

Even for a relatively conservative region of a relatively conservative state, the actions of the La Verkin City Council seem extreme. Forces stronger than a general fear of the furtive “new world order” must have influenced La Verkin, even if only instinctively. La Verkin Mayor Dan Howard, and Councilmen Al Snow, Victor Iverson, and Darren Cottam outlined their concerns shortly after the passage of the Ordinance by noting that

[w]hile the [La Verkin City] council doesn't believe the United Nations poses a direct threat to La Verkin, this political entity fosters a liberal agenda counter to most of the residents living in this rural community. . . . [T]he majority of residents living in Southern Utah embrace conservative values, such as family, property rights and the right to bear arms. Whereas the U.N. supports population control, radical environmentalism including the

vant to the argument in favor of the U.N.-Free Zone Ordinance, is beyond the scope of this Note.

55. See, e.g., *Report of the Committee on the Elimination of Discrimination Against Women*, 52d Sess., pt. 2, Supp. No. 38, ¶ 392, U.N. Doc. A/52/38/Rev.1 (1997) (“The Committee was alarmed by policy changes that apparently slowed down, or reversed, Australia's progress in achieving equality between women and men, such as in housing and childcare programmes, and in employment assistance. It was concerned about the delay in appointing a Sex Discrimination Commissioner and about the Government's declared intention to change its human rights policy and legislation as it pertained to women.”).

56. See Alan Ramsey, *The Numbers that Added up to a Mugging*, SYDNEY MORNING HERALD (Australia), June 27, 2000, at 19.

57. Press Release, Australian Minister for Foreign Affairs Alexander Downer, Attorney-General Daryl Williams, and Minister for Immigration and Multicultural Affairs Philip Ruddock, Improving the Effectiveness of United Nations Committees, (Aug. 29, 2000), available at http://www.dfat.gov.au/media/releases/foreign/2000/fa097_2000.html (last visited Sept. 30, 2003) [hereinafter Press Release].

58. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 4, U.N. GAOR, 54th Sess., Annex 1, Agenda Item 109, U.N. Doc. A/RES/54/4 (1999). Article 2 of the Protocol gives individuals or groups, who have exhausted national remedies the option of submitting “communications” to a U.N. committee regarding violations of rights contained in the Convention. *Id.* at 3.

59. See Neil Seeman, *U.N. Non Grata*, NAT'L REV. ONLINE, June 29, 2001, at http://www.nationalreview.com/nr_comment/nr_comment062901a.shtml (last visited Sept. 30, 2003).

60. See, e.g., Press Release, *supra* note 57.

taking of private property and the disarmament of Americans.⁶¹

Thus, an understanding of the forces brought to bear on the tiny town of La Verkin helps explain why the town's elected representatives felt that the U.N. was a legitimate threat to U.S. sovereignty, and that immediate action at the local level was necessary.

Three seemingly disparate chains of events converged in the "crucible" of La Verkin. First, the land policies of the federal and state governments had limited the possibilities of certain economic development in southern Utah. Second, members of the City Council may have believed that the U.N.-owned Desert Experimental Range near La Verkin, which is part of the U.N.'s strategy for Biosphere Reserves,⁶² formed part of a wider effort by the U.N. to control private and public lands within the United States. Third, the court-martial of Michael New for failing to don the U.N. insignia provided a sense of urgency and tangible proof of both the U.N.'s "real" objectives vis-à-vis the United States and the federal government's willing complicity in these sinister plots.

1. Land Policies and Fear of Distant, Apathetic Governments

Fierce independence and a distrust of the "big" government is an archetype of the American West and representative of at least a segment of La Verkin's population.⁶³ The challenges of an isolated rural life in southern Utah also create a sense of vulnerability and distrust among some La Verkin residents.⁶⁴ Thus, the federal government's apparent ideological distance from and apathy towards the people of southern Utah, and to their economic difficulties, combine to make its policies seem as though they are controlled by an even more distant and sinister force like the U.N.⁶⁵

Years of restrictive land management decisions, including President Clinton's 1996 dedication of the Grand Staircase-Escalante National Monument,⁶⁶ had made southern Utah distrustful of the distant and unfamiliar federal government long before it turned its attention to the U.N.⁶⁷ By

61. *Let's Get the Record Straight!*, *supra* note 19.

62. See generally U.N.E.S.C.O., *Seville Strategy for Biosphere Reserves*, available at <http://www.unesco.org/mab/docs/stry-1.htm> (last visited Feb. 23, 2002).

63. See, e.g., Charlie Brennan, *Town Defiant About Gun Law; Virgin, Utah, Proud to Require Arms*, DALLAS MORNING NEWS, Dec. 20, 2000, at 37A (citing a resident of the town of Virgin—a close neighbor to La Verkin—which passed an ordinance requiring each head of a household to own a gun and ammunition as saying that "[t]he people here are not vigilantes. They're a lot of farmers who just have grown up having guns, and they don't like to be dictated to by big government.").

64. See *id.* (discussing the economic vulnerability of Southern Utah, which the residents ascribe, in part, to the land policies of the federal government).

65. See *Western Empire*, DENVER POST, July 6, 2001, at B04 (noting that La Verkin's residents are "keenly protective of their property, always looking out for federal—or in this case, international—interference.").

66. Pres. Determ. No. 96-52, 61 Fed. Reg. 50,417 (Sept. 12, 1996).

67. See, e.g., William Perry Pendley, Editorial, *Bush's Drive for Western Balance*, CHRISTIAN SCI. MONITOR, Apr. 17, 2001, at 11, available at 2001 WL 3734850; *Western Empire*, *supra* note 80.

executive⁶⁸ or congressional action,⁶⁹ almost all of southern Utah is unavailable for development or for the extraction of local mineral deposits.⁷⁰ Whether these have been sound or necessary resource-management decisions from a state-wide, national, or global perspective, the economic effect on the people of this sparsely populated area has been substantial.⁷¹ To many residents of southern Utah, these actions seem unfair because they deprive them of much-needed employment opportunities.⁷² With this backdrop, it is not difficult to feel a palpable threat from a foreign—here meaning strange and international—governmental power.

2. U.N.E.S.C.O.'s Biosphere Reserves: Secret UN Military Bases?

Clearly interrelated to the federal and state limitations on the development of the land in southern Utah is the United States' participation in U.N.E.S.C.O.'s Man and the Biosphere Program.⁷³ The Biosphere Program creates a protocol for the management and study of wild reserve areas around the world.⁷⁴ It is not clear from media reports or the city's website exactly which specific aspects of the U.N.-owned Biosphere Reserve locations in the United States were of concern to the La Verkin City Council; but, clearly, the program troubled them.⁷⁵

Again, concerns about the Reserves are not limited to La Verkin. The forty-seven Reserves within the United States have generated substantial attention and criticism from some on the far right.⁷⁶ To these groups, the Reserves appear as further evidence of the U.N.'s intent to take over U.S. public and private lands—which in turn is a mere stepping stone to the

68. See Pres. Determ., *supra* note 66.

69. See, e.g., Utah West Desert Land Exchange Act of 2000, Pub. L. No. 106-301, 114 Stat. 1059 (2000) (exchanging control over a significant portion of land in southern Utah from state to federal government).

70. See Brennan, *supra* note 63.

71. See Pendley, *supra* note 67 (opining that President Clinton's environmental policy in the west, including southern Utah, which limited land use and thereby job creation, was a factor in voting patterns in the 2000 Presidential election).

72. See Brennan, *supra* note 63.

73. Memorandum for Heads of Certain Departments and Agencies, Subject: U.S. Participation in U.N.E.S.C.O.'s Man and the Biosphere Program, Executive Office of the President, Office of Science and Technology Policy, OMB March 9, 1979.

74. See *supra* note 62.

75. See Sullivan, *supra* note 5.

76. See, e.g., Helen Chenoweth-Hage, *The United Nations' Big Green Machine*, NEW AMERICAN, July 3, 2000, at 26, available at http://getusout.org/un/articles/green_machine.htm (last visited June 15, 2003). Former Idaho Representative Chenoweth-Hage expressed some of her concerns about the program as follows,

UNESCO's . . . Man and the Biosphere Program [is a] centerpiece[] of the UN's anti-human "Wilding" effort. Over 40 Biosphere Reserves and 20 World Heritage Sites have been declared in the U.S., covering more than 50 million acres. They include some of America's most famous historical treasures and natural wonders. In addition to Yellowstone National Park, we're supposed to consider ourselves *honored* to have other national parks, such as the Everglades, the Grand Canyon, and Yosemite all registered as World Heritage Sites. Not to mention Monticello and Independence Hall!—a symbol of our national independence—is being converted into a token of globalist *interdependence* under the UN.

larger plan of depriving all citizens of private property rights, or worse.⁷⁷ Speculation about the purpose of these Reserves runs from "animal worshipping" activities to the intentional cultivation of endangered species of plants and animals for transplant to new parts of the country⁷⁸ through secret U.N. concentration camps.⁷⁹

Furthermore, concerns over the Biosphere Program and its impacts on governmental sovereignty are not limited to the fringes of political debate on the far right. Alaskan Congressman Don Young has introduced the American Land Sovereignty Protection Act⁸⁰ in the 105th and 106th Congresses. The Act would forbid the inclusion of any federal lands in the Biosphere Program without the successful passage in both houses of Congress of a bill submitted by the President.⁸¹ The Act bases its prohibitions on Congress's exclusive power to regulate and dispose of federal land.⁸² The legislative findings of the Act⁸³ contain language sympathetic to the La Verkin goals:

(3) Some international land designations, such as those under the United States Biosphere Reserve Program and the Man and Biosphere Program of the United Nations Scientific, Educational, and Cultural Organization, operate under independent national committees, such as the United States national Man and Biosphere Committee, which have no legislative directives or authorization from Congress.⁸⁴

(5) The sovereignty of the States is a critical component of our Federal system of government and a bulwark against the unwise concentration of power.⁸⁵

The Act passed the House by a voice vote on May 20, 1999;⁸⁶ it then passed the House of Representatives again, but died in committee in the Senate.⁸⁷ Clearly, whatever the merits of its fears, La Verkin was not alone

Id. at 27.

77. See Letter from Roger E. Soles, Executive Director, U.S. MAB Program, to Concerned Citizens (Feb. 27, 1998), at <http://www.mabnetamericas.org/sovereignty.html> (last visited Sept. 30, 2001) [hereinafter Letter from Roger E. Soles]; see also Environmental Perspectives, Inc., *What's Wrong with Biosphere Reserves and World Heritage Sites*, at <http://www.epi.freedom.org/mab.htm> (last visited Sept. 19, 2003).

78. The apparent intention of this breeding program is to extend the radical environmentalists' control over more and more land through international treaties designed to protect these endangered species. See Letter from Roger E. Soles, *supra* note 77.

79. See *id.*

80. American Land Sovereignty Protection Act, H.R. 883, 106th Cong. (1999).

81. *Id.* § 3(2).

82. *Id.* § 2(a)(1) (citing article IV, section 3, of the Constitution). The Supreme Court in *Fed. Power Comm'n v. Idaho Power Co.*, 344 U.S. 17, 21 (1952), found that Congress' power in this area "is without limitations." However, this case did not address the question of whether Congress' power was limited by the power of the President to enter into treaties affecting the disposition of federal land, which appeared to be at the center of some of President Clinton's land-use decisions.

83. *Id.* § 2.

84. *Id.* § 2(a)(3).

85. *Id.* § 2 (a)(5).

86. CONG. REC. H1426, 8665-66 (daily ed. Oct. 8, 1997).

87. H.R. 901, 105th Cong. 1st Sess. during the 105th Cong. (1997).

in its concern over the Reserve Program.

3. *Michael New's Court-Martial*

Into the already simmering political caldron of southern Utah slipped the story of Texas-native Michael New's court-martial. Michael New refused to don a U.N. cap and insignia while his U.S. Army unit was under the command of a Finnish officer during a U.N. peacekeeping operation in Macedonia.⁸⁸ Believing that the order violated military law because it forced New to serve a "foreign power," he refused to wear the U.N. symbols.⁸⁹ Critics of the U.N. offer Michael New's five-year battle with the Army over his sentence of dishonorable discharge as proof of the U.N.'s designs to usurp U.S. military power⁹⁰ and President Clinton's willing complicity.⁹¹ In the end, New exhausted his military appeals and the Supreme Court refused to review the constitutionality of President Clinton's decision to place United States forces under the control of the U.N.⁹²

Michael New's case became a cause célèbre in the patriot movement.⁹³ His father, Daniel New, whom the Montana Human Rights Network called "[t]he architect of the anti-UN Ordinance,"⁹⁴ wrote a book about Michael's experience.⁹⁵ Daniel New also toured the country—including La Verkin⁹⁶—asking sympathetic local governments to adopt his Model U.N.-Free Zone Ordinance. La Verkin was the first to bite.⁹⁷

B. Daniel New's Model U.N. Free-Zone Ordinance

Daniel New's Model Ordinance seeks to inspire local officials to protect their towns from a furtive world government.⁹⁸ It contends, with firm conviction, that the U.N. Charter is not a treaty, but "an illegitimate and unconstitutional international constitution, having never been submitted to, nor ratified by, the People of the United States, as required by [the] Declaration of Independence, the charter of our nation."⁹⁹ Thus, accord-

88. Bob Dart, *Appeals Court May Reconsider Soldier's Ouster*, ATLANTA JOURNAL AND CONSTITUTION, Feb. 5, 2000, at 3B.

89. See DANIEL D. NEW, MICHAEL NEW: MERCENARY . . . OR AMERICAN SOLDIER 13-14 (1998).

90. *Id.*

91. *Id.* at 14-15 ("What has happened to Michael New is part of a pattern. An administration [Clinton's] which orders a young soldier to report to the U.N. will sell our sovereignty to the United Nations and our security to China.").

92. *United States v. New*, 55 M.J. 95 (2001), *cert. denied*, 54 U.S. 955 (2001).

93. Bob Dart, *Medic Who Refused to Don U.N. Logo Gets Support*, WASH. TIMES, Feb. 5, 2000, at A3.

94. *Anti-UN Fever*, *supra* note 45. The Montana Human Rights Network claims that New believes, *inter alia*, that communists control the White House. See *id.*; see also Model United Nations-Free Ordinance for Your City or County, at <http://www.un-freezone.org/unfreeor3.html> (last visited Sept. 30, 2003) [hereinafter Model U.N.-Free Ordinance].

95. NEW, *supra* note 90.

96. Sullivan, *supra* note 5.

97. *Id.*

98. See Model U.N.-Free Ordinance, *supra* note 95, § 2.

99. *Id.* § 3(B).

ing to the Model Ordinance, "[t]he Congress, the President, and the Supreme Court of the United States . . . have utterly failed to protect the American people from the United Nations' usurpation of the sovereignty of the American people, including the sovereign powers of the people of this city."¹⁰⁰

The Model Ordinance is comprehensive in scope¹⁰¹ and defends the

100. *Id.* § 3(D).

101. *Id.* §§ 4-6.

Section 4. Prohibitions.

A. **Cessation of Present Activities.** No person, corporation, school, college, university, institution, or other entity shall within the City of _____ knowingly aid or abet any illegal or unconstitutional activity of the United Nations or of any entity financially supported by or affiliated with the United Nations. This prohibition shall take effect no more than two years after the adoption of this ordinance.

B. **Commencement of Work for the United Nations.** No person, corporation, school, college, university, institution, or other entity which is not, as of the date this ordinance is adopted, engaged in any work for the United Nations, or any entity financially supported by or affiliated with the United Nations, shall, within the City of _____ aid or abet any illegal or unconstitutional activity of the United Nations or of any entity financially supported by or affiliated with the United Nations.

C. **United Nations Flags and Symbols.** No flag, symbol, or other logo of the United Nations shall be displayed on city property, provided however, that this prohibition does not apply to a photograph or other pictorial display of such flags, symbols or logos as part of an exhibit of an historical nature.

D. **United Nations Personnel.** No United Nations personnel may conduct any official United Nations activity of any kind whatsoever and, under no circumstances, may United Nations peacekeeping or other troops be quartered on any property within the geographic limits of this City.

E. **United Nations Tax.** No tax, levy, surcharge, fee, assessment, or other financial burden authorized by the United Nations may be imposed on or collected from any person within the geographic limits of this City.

F. **United Nations Restraints.** No arrest or restraint of the liberty of any citizen of this City by any official acting under the authority of the United Nations may be effected within the geographic limits of this City.

G. **International Court Decree.** No judicial order, decree or judgment entered by any international court under the authority of the United Nations shall be enforceable within the geographic limits of this City.

Section 5. United Nations Free Contracts and Investments

A. **Contracts.** The City of _____ shall grant no contract to any person, business or nonprofit entity which knowingly engages in work for the United Nations, or for any entity supported by or affiliated with the United Nations, unless the City Council makes a specific determination that no reasonable alternative exists, taking into consideration the following factors:

1. The intent and purposes of this ordinance;
2. The availability of alternative services, goods and equipment, or other supplies substantially meeting the required specifications of the proposed contract; and
3. Quantifiable additional costs resulting from use of available alternatives.

B. **Investments.** The City of _____ shall refrain from making any new investments in businesses that knowingly engage in work, whether with or without remuneration, for the United Nations, including advertising support of, subsidies for, or promotions of the United Nations, its supporters and affiliates, and their activities. Within two years of the adoption of this ordinance, the City of _____ shall divest itself from all such investments currently held by it (including pension funds). The City Council shall adopt a[n] economically

Constitution largely by ignoring it. Press reports of the first La Verkin Ordinance suggest that it was substantially similar to Daniel New's Model Ordinance.¹⁰² For instance, the first version of La Verkin's Ordinance contained many of the more troubling requirements of Daniel New's Model Ordinance, including a "Scarlet Letter" notice requirement for local businesses that chose to accept a U.N. contract.¹⁰³ Therefore, it is not surprising that upon reading the first version of the La Verkin Ordinance, Utah Attorney General Mark Shurtleff told the city council, "[t]hroughout this document you are violating the First Amendment, freedom of speech, freedom of assembly and possibly the Fifth Amendment."¹⁰⁴

C. La Verkin: The Crucible

The Revised Ordinance adopted by the La Verkin City Council differs substantially from Daniel New's Model Ordinance. Nevertheless, the most compelling sections of the Ordinance, its "Purpose" and "Findings" sections, sections three¹⁰⁵ and four¹⁰⁶ respectfully, are almost identical in wording to the Model Ordinance. At first, these sections sound in the

responsible plan with respect to city pension fund and other investments and shall implement such plan consistent with the intent of this ordinance.

Section 6. Reports and Information.

In the event that Section 4A or B is unenforceable, and so long as any work for or with the United Nations, its financed supporters and affiliates continues within the City of _____, the following monitoring of such activities shall be carried out by the City through such agencies as the City Council shall designate.

A. **Annual Reporting.** Each person, corporation, school, college, university, institution, or other entity engaged in work for or with the United Nations, its supporters or affiliates (hereinafter designated as "United Nations agent") shall prepare an annual report which details the activities and programs engaged in, names the agency or entity worked for or with, states the nature of the relationship between that agency or entity and the United Nations and specifies the reasons for continuation of such work or relationship. These annual reports shall be filed with the designated city agency or agencies and shall also be made available for inspection and copying by any interested member of the public.

B. **Information.** The City Council may require any United Nations agent to provide such further information as the Council deems is necessary to keep the community adequately informed of "United Nations activity" within the City and at such reasonable times and places as the City Council determines.

C. **Signs.** Every facility within the City of _____ in which work for or with the United Nations, its supporters or affiliates takes place shall be required to install and maintain signs clearly visible to any passing person, identifying the facility with the legend "UNITED NATIONS WORK CONDUCTED HERE."

D. **Fee.** Each United Nations agent shall be assessed a fee at rates to be determined by the City which shall be at least adequate to cover, in the aggregate, the costs of administering this act").

102. Compare Billups, *supra* note 4 (stating that the ordinance prohibited the use of money to aid the U.N. and the use of the U.N. symbol on town property as well as mandated that those who supported the UN must post signs that read: "United Nations work conducted here), with Revised Ordinance, *supra* note 13, §§ 4(A), (C), 6(C).

103. See Billups, *supra* note 4.

104. Brandon Loomis, *U.N. Ban Won't Fly, Town Told*, SALT LAKE TRIB., July 19, 2001, at C1 (quoting Attorney General Mark Shurtleff).

105. U.N.-Free Zone Ordinance, *supra* note 17, § 3

broad and familiar principles of liberty and freedom that few could find objectionable. Soon, however, the reader feels a "through the looking glass" quality, in particular, when section 4(B) calls the U.N. Charter an "unconstitutional internal constitution for a world government."

When compared to the sweeping indictment of the "Purpose" and "Findings" sections, however, the "Prohibitions" section seems tame and anticlimactic. Section 5(A) prohibits the flying of the U.N. flag from the City's official flag mast.¹⁰⁷ Curiously, the Model Ordinance section would allow, without defining, "an historical" display of the U.N. flag or sym-

Section 3. Purpose.

A. To maintain and preserve the Supreme Law of the Land as set forth in the Constitution of the State of Utah, and of these United States to the benefit of the people of the City of La Verkin, including but not limited to the freedoms of religion, speech, press, assembly and to petition the government for redress of grievances; and the rights of all persons to keep and bear arms, to trial by jury, to the privilege against self-incrimination, and to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures; and to the common law writ of *habeas corpus*. The underlying purpose of this ordinance is to protect personal freedom and self-government.

B. To oppose the United Nations Charter as an illegitimate and unconstitutional charter.

C. To resist the United Nations' unconstitutional and illegal usurpation of the United States of America sovereignty.

D. To restore completely the People of the Several States as the final and ultimate civil authority in these United States of America.

E. To recognize no executive, legislative or judicial power within the city limits other than those powers duly constituted by the People in the Constitution of the State of Utah and by the Peoples of the Several States in the United States Constitution.

F. To protect the citizens of the City of La Verkin from taxation without representation, by forbidding the United Nations from implementing within the city limits any involuntary tax, levy, fee, assessment or surcharge, and petition Congress to refrain from funding United Nations activities and oppose any attempt by the United Nations to fund its activities through taxation.

G. To establish a citizen's right to know about, and to increase citizen awareness of the activities of the United Nations.

106. *Id.* § 4

Section 4. Findings.

The governing body of La Verkin City finds that:

A. The City Council of this city is bound by oath and affirmation to support the Constitution of the United States and, pursuant to that oath and Article VI of the United States Constitution, to obey only treaties "made under the Authority of the United States."

B. The United Nations Charter is not by definition or in practice a treaty "made under the Authority of the United States," as set forth in Article VI of the United States Constitution, but an illegitimate and unconstitutional internal constitution for a world government.

C. The Congress, the President, and the Supreme Court of the United States, have failed to adequately protect the people of the United States from the United Nations' usurpation of the sovereignty of the people of the United States, including the sovereign powers of the people of this city.

D. The People of this city have a right to know about any unconstitutional and unlawful activities of the United Nations, as they may impact this community.

107. *Id.* § 5(A) ("UNITED NATIONS FLAGS AND SYMBOLS. No flag or other symbol representing the United Nations shall be displayed or flown from the City's official flag mast located at or on the City office building.").

bol.¹⁰⁸ Section 5(B) parrots the Third Amendment's protection against quartering troops without consent.¹⁰⁹ Section 5(C) forbids the U.N. from imposing a tax on residents of the town without state or federal approval.¹¹⁰ Section 5(D) prohibits the City from making direct financial contributions to the U.N.¹¹¹ Section 5(E) provides a safe haven in La Verkin from U.N. arrest or restraint of liberty.¹¹² Lastly, section 5(F) renders unenforceable any action of an international court under the auspices of the U.N.¹¹³

108. Model U.N.-Free Ordinance, *supra* note 95, § 4(C) ("UNITED NATIONS FLAGS AND SYMBOLS. No flag, symbol, or other logo of the United Nations shall be displayed on city property, provided however, that this prohibition does not apply to a photograph or other pictorial display of such flags, symbols or logos as part of an exhibit of an historical nature.").

109. Compare Revised Ordinance, *supra* note 13, § 5(B) ("UNITED NATIONS PERSONNEL. No United Nations military troops or personnel may be quartered on City property, unless expressly authorized by state or federal law."), with Model U.N.-Free Ordinance, *supra* note 95, § 4(D) ("UNITED NATIONS PERSONNEL. No United Nations personnel may conduct any official United Nations activity of any kind whatsoever and, under no circumstances, may United Nations peacekeeping or other troops be quartered on any property within the geographic limits of this city."), and U.S. CONST. amend. III ("No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner prescribed by law.").

110. Compare Revised Ordinance, *supra* note 13, § 5(C) ("UNITED NATIONS TAX. No involuntary tax, levy, surcharge, fee, assessment, or other financial burden authorized by the United Nations may be imposed on any person within the geographic limits of this City, unless expressly authorized by state or federal law."), with Model U.N.-Free Ordinance, *supra* note 95, § 4(E) (UNITED NATIONS TAX. No involuntary tax, levy, surcharge, fee, assessment, or other financial burden authorized by the United Nations may be imposed on any person within the geographic limits of this City.").

111. Compare Revised Ordinance, *supra* note 13, § 5(D), with Model U.N.-Free Ordinance, *supra* note 95, § 5(A)-(B) (detailing a set of limitations on the awarding of municipal contracts and the investment of city funds with "persons, business or nonprofit entity which knowingly engages in work for the United Nations.").

112. Compare Revised Ordinance, *supra* note 13, § 5(E) ("UNITED NATIONS RESTRAINTS. No arrest or restraint of the liberty of any citizen of this City by any official acting under the authority of the United Nations may be effected within the geographic limits of this City, unless expressly authorized by state or federal law."), with Model U.N.-Free Ordinance, *supra* note 95, § 4(F) ("UNITED NATIONS RESTRAINTS. No arrest or restraint of the liberty of any citizen of this City by any official acting under the authority of the United Nations may be effected within the geographic limits of this City.").

113. Compare Revised Ordinance, *supra* note 13, § 5(F) ("INTERNATIONAL COURT DECREE. No judicial order, decree or judgment entered by any international court under the authority of the United Nations shall be enforceable within the geographic limits of this City, unless expressly authorized by state or federal law."), with Model U.N.-Free Ordinance, *supra* note 95, § 4(G) ("INTERNATIONAL COURT DECREE. No judicial order, decree or judgment entered by any international court under the authority of the United Nations shall be enforceable within the geographic limits of this City.").

II. The U.N.-Free Zone Ordinance: "Please tell your citizens we have no black helicopters . . . we have no designs on the United States"¹¹⁴

A. The La Verkin Ordinance and U.S. Constitutional Law

The La Verkin Ordinance would pass a hypothetical constitutional challenge primarily because it fails to accomplish the sweeping, patriotic aspirations of its "Purpose" and "Findings" sections. The City Council amended New's Model Ordinance at the behest of Utah Attorney General Mark Shurtleff and added the tag "unless expressly authorized by state or federal law" to four of the six prohibitions in the Ordinance.¹¹⁵ The Ordinance could only apply in the unlikely event that the U.N. attempts independent action in La Verkin, which would include the delegation to the Security Council, in contravention of or with the quiescence of the federal government. The Ordinance, however, does exactly what its drafters hoped it would. It provides some legal protection, however limited and quixotic, in the event that the U.N. acts within the United States as a separate sovereign government.

An analysis of two recent state statutes that, like the Ordinance, restrict relationships between U.S. citizens and certain international entities underscores the likelihood that the Revised Ordinance would survive constitutional attack. Local and state governments have often taken foreign policy positions in legislation with varying degrees of practical and legal success. For example, since 1997, it has been a class 1 felony in Illinois to solicit material resources supporting international terrorism.¹¹⁶ Similarly, from the late-1970s through the fall of the Apartheid Regime in South Africa, many cities and states passed laws preventing direct investment in South Africa.¹¹⁷

Recently, a Massachusetts anti-Burma law unsuccessfully attempted to achieve a similar democratizing objective through the control of contract awards.¹¹⁸ Massachusetts sought to change the oppressive regime in Burma by making it more difficult for companies with ties to Burma to bid successfully on contracts with the State.¹¹⁹ The Supreme Court vacated the statute in *Crosby v. National Foreign Trade Council*. An important aspect

114. Press Release, United Nations Secretary General Kofi Annan addressing then-Vice President Albert Gore, *Secretary-General Discusses UN Reform in First Official Visit to Washington, D.C.*, SG/T/2081 23 January 1997, available at <http://www.un.org/News/Press/docs/1997/19970123.sgt2081.html>. On the "black helicopter" hysteria, see KEITH, *supra* note 41.

115. See Revised Ordinance, *supra* note 13, §§ 5(B)-(F); see also Perkins, *supra* note 5 (noting that the City Attorney wrote much of the Revised Ordinance).

116. 720 ILL. COMP. STAT. 5/29C-10 (2001) (repealed 2002).

117. See Peter Fitzgerald, *Massachusetts, Burma, and the World Trade Organization: A Commentary on Blacklisting, Federalism, and Internet Advocacy in the Global Trading Area*, 34 CORNELL INT'L L.J. 1 (2001).

118. MASS. GEN. LAWS ch. 7 §§ 22G-22M (1997) (vacated by *Crosby v. Nat'l Foreign Trade Council*, 530 U.S. 363 (2000)).

119. See Fitzgerald, *supra* note 118.

of the *Crosby* reasoning rested on international trade, rather than basic constitutional rights. The Court noted,

We need not get into any general consideration of the limits of state action affecting foreign affairs to realize that the President's maximum power to persuade rests on his capacity to bargain for the benefits of access to the entire national economy without exception for enclaves fenced off willy-nilly by inconsistent political tactics.¹²⁰

To some members of the Court, however, this may be a distinction without a difference, because the primary offense of the Massachusetts-Burma law was its interference with congressional intent and presidential power rather than the merit of its content.¹²¹

The ineffectiveness of the Revised Ordinance, coupled with the importance of its subject matter as a form of political speech,¹²² would likely combine to save the Ordinance from constitutional challenge. Although the Revised Ordinance takes a different—albeit unusual—tack, its structure and goals are more closely allied with the Illinois anti-terrorism law than with the ill-fated Massachusetts Burma law, because it seeks to protect local residents from an international threat rather than to achieve a political goal. Aside from its overt political message, the Revised Ordinance attempts to provide the citizens of La Verkin with basic constitutional rights in the event of a U.N. incursion into the city. Thus, with the possible exception of the prohibition of direct contributions to the U.N. by the city,¹²³ the goals of the Ordinance distinguish it from local sanction laws and the Massachusetts-Burma law.

B. The La Verkin Ordinance and International Law

The analysis of the La Verkin Ordinance under international law is, in many ways, similar to its analysis under U.S. constitutional law. The interrelationship between the U.N. and its Charter, U.S. federal law, and the language of the Ordinance precludes the actual application of the La Verkin Ordinance to U.N. acts within the United States. Nevertheless, an analysis of the basic principles of applicable international law and the operations of the U.N. system is unlikely to convince the proponents of the Ordinance that their fears are largely unfounded.¹²⁴ After all, for a covert plan to succeed, it is essential that the “real” details of the plan remain largely undisclosed. Unfortunately for its proponents, during its brief life, the

120. *Crosby*, 530 U.S. at 381.

121. *Id.* at 389-91 (Scalia, J., concurring).

122. The most compelling and controversial aspects of the statute are its purpose and findings sections, which contain no enforceable law or prohibitions, and are more likely a form of political expression. See discussion *infra* Part I.B-C.

123. Revised Ordinance, *supra* note 13, § 5(D)

124. Similarly, it is unlikely that such an argument would mollify those who are concerned with the use of the U.N. structure to achieve domestic policy goals that would be politically infeasible if introduced directly. *Contra* Roger E. Soles, Executive Director, U.S. MAB Program, *Letter to Concerned Citizens*, Feb. 27, 1998, available at <http://www.usmab.org/sovereignty.html> (last visited Nov. 2, 2001).

Ordinance failed to diminish the "threat" posed by U.N. military action in La Verkin.

A cursory review of the structure and operation of the U.N. shows the limitations of the Revised Ordinance's power. The U.N. Charter serves as a treaty among the various nations and as the governing constitution of the U.N. body.¹²⁵ Resolutions of the Security Council are binding on the member states, as a matter of international law.¹²⁶ In addition, the Security Council must approve any use of force in a U.N.-sanctioned activity.¹²⁷ All Security Council resolutions are subject to veto by any of the permanent members, including the United States.¹²⁸

Resolutions of the Security Council are part of U.S. federal law by virtue of the Senate's ratification of the UN Charter. Therefore, regardless of whether a treaty is considered "self-executing,"¹²⁹ the Revised Ordinance has little practical value because U.S. domestic laws implementing the Resolutions of the Security Council are matters of federal law, which would have precluded action under the Revised Ordinance. Therefore, federal law would, ipso facto, expressly authorize any decision by the U.N. stationing troops in La Verkin, assuming, of course, that the U.N. could practically adopt such a measure. In addition, the obligations of the United States as a member of the U.N. do not strip it of the right of self-defense in the face of an armed attack;¹³⁰ whether by another nation, organization, or a furtive U.N. army.

Lastly, the Revised Ordinance could have conflicted with an international court established under the U.N. Charter. Section 5(F) of the Revised Ordinance attempts to render unenforceable any "[j]udicial order, decree or judgment" of any international court under the auspices of the U.N.¹³¹ It is difficult to determine exactly which international courts the statute intends to forbid and why it used such sweeping language. Presumably, "any international court" would include at least the International Court of Justice (ICJ) and the International Criminal Court (ICC).

In the case of the ICJ, only states may be parties to matters before the court,¹³² and the United States Senate assented to the jurisdiction of the ICJ as an aspect of its ratification of the U.N. Charter.¹³³ Consequently, all ICJ decisions made within its jurisdiction are "expressly authorized" by federal law. Furthermore, the federal government would enforce an ICJ ruling within the United States and the Supremacy Clause¹³⁴ would trump

125. Franz Cede, *Historical Introduction*, in *THE UNITED NATIONS: LAW AND PRACTICE* 6-9 (Franz Cede & Lilly Sucharipa-Behrmann eds., 2001).

126. JORDAN J. PAUST, *INTERNATIONAL LAW AS LAW OF THE UNITED STATES*, 464 n.64 (1996).

127. U.N. CHARTER, ch. VII, art. 42.

128. U.N. CHARTER, ch. V, art. 27 ¶ 3.

129. See PAUST, *supra* note 127, at 51-79.

130. See U.N. CHARTER, ch. VII, art. 51.

131. Revised Ordinance, *supra* note 13, § 5(F).

132. Statute of the International Court of Justice, art. 34(1).

133. S. Res. 196, 79th Cong., 2d Sess. (1946).

134. U.S. CONST., art VI, para. 2.

any attempts by La Verkin to interfere.

The enforcement of an ICC conviction or indictment presents a more interesting set of potential conflicts. A substantial body of scholarly work addresses the jurisdictional problems of the ICC, both for party and non-party states.¹³⁵ For our purposes, it is enough to say that under only two circumstances would a La Verkin resident be subject to ICC jurisdiction and, in such cases, the Revised Ordinance would afford little protection. First, the United States could become a party to the Rome Statute,¹³⁶ which appears unlikely in the near future. Second, the United States could choose to extradite an accused U.S. citizen under a preexisting international agreement.¹³⁷ In either case, either federal law would preempt the Revised Ordinance, or federal law would expressly authorize the action, rendering the protections of the Revised Ordinance inapplicable.

C. Envisioning International Reaction to an Attempted Enforcement of the La Verkin U.N.-Free Ordinance

It is likely that the international community would react with curious indifference to an attempt to enforce a U.N.-free zone within the United States.¹³⁸ However, depending upon the reaction of the federal government and the specific U.N. activity at issue, the reaction could be similar to that following the adoption and enforcement of the Massachusetts anti-Burma law. In *Crosby*, the Supreme Court was particularly concerned with the international reaction to the law and the effects of this reaction on the various diplomatic efforts of the President.¹³⁹ In response to the Massachusetts law, several nations formally protested to the United States. For instance, the European Union and Japan lodged formal complaints against the U.S. with the World Trade Organization.¹⁴⁰ The Court quoted the following remarks by then Assistant Secretary of State Larson before the Council of State Governments, "[t]he EU's opposition to the Massachusetts law has meant that U.S. government high level discussions with EU officials often have focused not on what to do about Burma, but on what to do about the Massachusetts Burma law."¹⁴¹ The force of the international reaction alone is sufficient to distinguish the anti-Burma laws from the earlier and more successful anti-Apartheid local laws, a point which has troub-

135. See, e.g., George E. Edwards, *International Human Rights Law Challenges to the New International Criminal Court: The Search and Seizure Right to Privacy*, 26 YALE J. INT'L L. 323 (2001).

136. Rome Statute of the International Criminal Court, July 17, 1998, Annex 11, U.N. Doc. A/CONF. 183/9 (1998), available at <http://www.un.org/law/icc/statute/roefra.htm>.

137. E.g., Treaty on Extradition Between the United States of America and Canada, Mar. 22, 1976, U.S.-Can., 27 U.S.T. 983.

138. See, e.g., Burr, *supra* note 9 (quoting U.N. spokesman Farhan Haq as saying, "The U.N. doesn't involve itself in the internal affairs of its member states.").

139. *Crosby*, 530 U.S. at 383.

140. *Id.*

141. *Id.* at 383.

led commentators,¹⁴² and may prove to be the demarcation between permissible and impermissible local actions.

With the framework of international reaction as a partial talisman of permissible local action, the particular facts of an application of the Revised Ordinance would be paramount. Returning to the case of Michael New,¹⁴³ one could imagine—although not without difficulty—a scenario that might prompt a stronger international reaction. If one assumes that New were a resident of La Verkin and refused to don the U.N. insignia because of the Revised Ordinance and the Army accepted his justification instead of court-martialing him, perhaps the decision might have outraged members of NATO or the EU, prompting strong criticism of the Revised Ordinance. However, the actions of one U.S. soldier and the reaction of his or her government are unlikely to enflame passions in the same way that the anti-Burma law did.

A more compelling example requires greater imagination and consequently seems less likely. For example, one could imagine a war crimes fugitive fleeing from an ICC indictment and hiding in La Verkin with the acquiescence of the federal and state governments. However, such a scenario is so unlikely that it does not merit further exploration. Under the current scheme of U.S.-U.N. relations, even if the La Verkin Ordinance had survived, it is highly unlikely that an attempt to enforce the Ordinance's prohibitions would elicit little more than international bewilderment.

D. Would the La Verkin Revised Ordinance Have Protected Michael New?

In perhaps the most interesting twist of this story, the main protagonist in the La Verkin drama, Daniel New, although successful in finding a town to adopt his Model Ordinance, would have been unable to use his Ordinance to save his son from being court-martialed. The Army based the court-martial on New's willful disregard of an order by a U.S. superior to comply with an order to don aspects of the U.N. uniform before deployment in Macedonia as a peacekeeper.¹⁴⁴ The superior gave New an opportunity to articulate in writing his view that such an order was illegal.¹⁴⁵ The Court of Appeals for the Armed Forces held, *inter alia*, that "[i]t is not a defense for appellant to claim that the order is illegal based on his interpretation of applicable law. An order is presumed to be lawful and the defense has the burden to prove illegality unless the order is palpably illegal on its face."¹⁴⁶ The essential point of New's case for this discussion is that, although the U.N. was tangentially involved in controversy, the U.S.

142. See Thomas A. Barnico, *The Road From Burma: State Boycotts After Crosby v. National Foreign Trade Council*, 19 B.U. INT'L L.J. 89 (2001).

143. See discussion *infra* Part II.D. (discussing the limited protection the Ordinance would have afforded Michael New had he been a citizen of La Verkin at the time of his court-martial).

144. *United States v. New*, 55 M.J. 95, 97-98 (C.A.A.F. 2001).

145. *Id.*

146. *Id.* at 108.

military exclusively determined its orders, review, and court-martial after a determination by the President to comply with a request from the U.N.

Even if a municipality had adequate jurisdictional competence to forbid its citizens from entering into military service for the U.N., the Revised Ordinance would not have protected New from court-martial.¹⁴⁷ Here, too, we run into the effects of the "authorized by state or federal law" language appended to the prohibitions of the Revised Ordinance. New's refusal to comply with the order was eventually ruled improper under an interpretation of U.S. military law rather than international law.¹⁴⁸ U.S. military law is, of course, a matter of federal law. Consequently, the Army's court-martial was beyond the scope of the Revised Ordinance.

In contrast, section three of the Model Ordinance requires a city council to protect the United States national sovereignty, in part, by forbidding any citizen of the city "to serve the United Nations in any capacity."¹⁴⁹ As with many of the other sections in both the Model and La Verkin Ordinances, it is difficult to imagine situations in which the prohibitions would apply and exactly how a particular city council could actually comply with this requirement.

Conclusion

Although the Revised Ordinance was at least tolerable under U.S. and international law, the Revised Ordinance was important for several socio-political reasons that will prove to be of increasing importance as the U.N. evolves in the new millennium. Even in the "developed" world, rampant misunderstanding about the structure and abilities of the U.N. system breed tales of fantastic and elaborate plans for covert world conquest. By themselves, these misunderstandings are reasonably benign; however, as free-trade, powerful regional alliances, and greater inclusion of nations in world politics strain the practical and physical necessity of national borders, wild misapprehensions could prove dangerous. In a future moment of international crisis when the world turns to the U.N., the organization could find itself facing unexpected and emotionally-charged opposition from unlikely quarters. La Verkin deserves serious examination not only for its political views, but also for its courage in having taken an unpopular, although likely unfounded, position. The belief in the right of local action, regardless of efficacy, is a cornerstone of our democratic vision. The strength of the nascent international system will be the better for it.¹⁵⁰

147. This analysis assumes both that New would have been a resident of either La Verkin or a city with a similar ordinance and also that the city would have had the ordinance in effect when he entered military service.

148. See *New*, 55 M.J. at 95.

149. Model U.N.-Free Ordinance, *supra* note 95, §3(E)(1).

150. Paul Simon, I think, said it best:

Paranoia strikes deep in the heartland
But I think it's all overdone
Exaggerating this and exaggerating that
They don't have no fun

...

Maybe I'm laughing my way to disaster
Maybe my race has been run
Maybe I'm blind to the fate of mankind
But what can be done?
So God bless the goods we was given
And God bless the U. S. of A.
And God bless our standard of livin'
Let's keep it that way
And we'll all have a good time

Paul Simon, *Have A Good Time*, in *NEGOTIATIONS AND LOVE SONGS 1971-1986* (Warner Brothers 1990).